

Letter to Alexander Graham Bell, November 13, 1914

Nov. 13, 1914. Dr. Alexander Graham Bell, Beinn Bhreagh, Near Baddeck, Victoria County, Cape Breton, Nova Scotia, Canada. Dear Dr. Bell:—

Bell et al. v. Myers Interference .

We are in receipt from the Patent Office of an official communication, indicating that testimony in chief on behalf of Bell et al. must close December 26, 1914; Myers' reply testimony must close January 26, 1915; and the rebuttal testimony of Bell et al. must close February 10, 1915.

You will therefore appreciate that the matter of preparing for our testimony should have prompt attention. We shall probably have to secure depositions from yourself, and Messrs. Curtiss, McCurdy and Baldwin. It would probably best suit the convenience of yourself, and possibly that of the other joint inventors, if these depositions could be given here in Washington; certainly, that would be our desire, if in conformity with your wishes. We shall have to give Myers notice of the time of taking these depositions, so that he may be present and cross-examine. We suggest that the testimony be started about the 15th of December, inasmuch as we understand that you will be in this City by that time.

You will recall that the issue of the interference has to do solely with the arranging of the lateral balancing rudders normally at a zero angle of incidence, these ailerons being moved to equal and opposite angles of incidence by suitable connections. In some of the counts of the issue, it is specified that a single controlling lever is operatively connected to both of said rudders. In the preliminary statements, it is alleged that this invention was conceived on or about April 6, 1908; that the invention was embodied in a full-size flying machine on or about the 15th day of June, 1908, and that said flying machine was successfully operated on or about that day, all of these acts being performed in

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the United States of America. To refresh your memory, we enclose herewith copy of a memorandum which we prepared on April 16, 1912, and also a memorandum which Mr. Curtiss prepared. We also enclose herewith copy of a letter dated March 20, 1908, which you wrote to Mr. Baldwin just after the "Red Wing" disaster. This letter appears in the B. B. Recorder, Vol. 8, 2 page 437. Please examine carefully your records at Beinn Bhreagh, and bring to Washington with you photographs, drawings, letters and any other data that you may find bearing on the matter of the conception of this invention and its embodiment in the "June Bug".

With respect to the conception of the invention on or about April 6, 1908, we would desire you to produce the photograph which was taken on April 6, 1908, in Hammondsport, which photograph shows all five of the joint inventors, together with several other people. It is of the greatest importance that we should be able to substantiate, by someone other than the joint inventors, the allegation in the preliminary statement that the invention was disclosed to such outsider on or about April 6, 1908, which is the date alleged for conception of the invention. Probably someone of the outsiders, whose likeness appears in the photograph in question, might be able to corroborate the allegations of the joint inventors to this effect. Mr. McCurdy stated to us sometime ago that Captain Baldwin was present in Hammondsport in 1908, and that it is possible that the matter of arranging the lateral balancing rudders at a zero angle of incidence was discussed in his presence; indeed, that he may have participated in these discussions, and may recollect the same. Mr. McCurdy at that time (April 16, 1912) stated that he would later go over the matter with Captain Baldwin, but we do not know whether he has done so. We wish that you would communicate promptly with Captain Baldwin, to ascertain if he can corroborate you in the allegation that the invention in question was disclosed to him in April, 1908, while in Hammondsport, and whether he would be willing to give a deposition in this matter.

We also desire to corroborate, by an outsider, the allegation of the joint inventors that on or about June 15, 1908, flights were made in the old "June Bug" with the lateral balancing rudders arranged at a zero angle of incidence. Probably one or more of the workmen

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employed in Hammondsport could testify in this connection. We would want the most intelligent man obtainable, and one who could give reasons for remembering that it was on or about June 15, 1908 that the "June Bug" was successfully operated with the ailerons arranged at a zero angle of incidence. It might be that Kenneth Ingrain or Henry Kleckler could testify in this connection. We understand that Kleckler was at that time foreman of the Curtiss Co., and that Ingrain probably helped to change the rudders on the "June Bug" to a normal zero angle of incidence. We are forwarding a copy of this letter to Mr. Curtiss, at Hammondsport, with the request that he look into this phase of the situation, and also get together any data that he may have bearing on the conception of this invention and its embodiment in the old "June Bug".

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As above indicated, we shall probably secure depositions from you, Mr. Curtiss, Mr. McCurdy and Mr. Baldwin, as well as from the corroborating witnesses. Under the authorities, the testimony of one joint inventor cannot be used as corroboratory of the testimony of another joint inventor, the joint inventors in the eye of the law being regarded as an entity. If we cannot, however, obtain corroboratory depositions from outsiders, we shall have to do the best we can with the depositions of the joint inventors. In this connection, we shall desire your deposition to be in part historical, setting forth the inception of your interest in aerial navigation, the formation of the A.E.A., and the fact that Messrs. Curtiss, McCurdy, Baldwin and Selfridge were selected by you as members of this Association, because of their peculiar qualifications, each bringing to the Association highly expert knowledge in connection with the various problems which had to be solved. With this as a foundation, we would argue (if we were unable to secure corroboratory testimony with respect to the conception of the invention) that the present case is exceptional, and that the general rule regarding corroboration by testimony of witnesses other than the joint inventors should not apply in this case.

We shall desire to set forth clearly and in some detail the various operations of the A.E.A., to wit, the building of the "Red Wing", "White Wing" and "June Bug", and the dates when

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work on these machines was commenced and finished. We shall desire to introduce photographs or drawings of these various machines. We trust that you will find among your records suitable photographs or drawings that we may introduce in evidence.

We fear that you will find little in the A.E.A. reports with respect to the conception of this invention. In Bulletin N° 15 you stated:

“Before July 13, 1908 our most important discussions were by word of mouth and left no record behind.”

With respect to the building of the three machines above referred to, we call our attention to the entry in the A.E.A. reports of January 15, 1908 (page 27), which refers to the starting of work on the “Red Wing”. We also call your attention to the entry under date of April 3, 1908, which covers the construction of the “Red Wing” and the indication that “Work started on new machine March 23d, finished May 6” (evidently referred to the “White Wing”). We also call your attention to the entry on page 36, which states that “Plans were started on the 25th and actual work on the 28th” (the 4 month referred to being evidently May, 1908, and the machine the “June Bug”). The entry under date of June 28, 1908 states:

“Aerodrome N o 3 was christened ‘Curtiss’ June Bug’ at Mr. Bell's suggestion. On June 19th machine was completed, having been commenced on May 26th”.

As we understand it, the old “June Bug” was flown a number of times before the lateral balancing rudders were changed to a normal zero angle of incidence, and certainly this change was not made prior to June 19, 1908, because the machine was not completed until that date.

In this same entry of June 28, 1908, it is stated that —

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"On June 20th (1908) a new white spar-shaped tail was made and completed in time to make a trial late in the evening. The tail was shaped like the main cell, at Mr. Bell's suggestion. Mr. and Mrs. Bell were with us at this time. Three trials were made, but the machine refused to rise. This was most discouraging. Curtiss, and we all agreed with him, seemed to think it due to the porosity of the cloth. This was very light, and was quite easy to blow through. It was decided to coat it with paraffin dissolved with gasoline to close the pores. * * * * On the evening of June 21 (1908), the machine made three successful flights."

On page 39, it is stated:

"On the morning of June 25th, at 6:15 A. M., the machine made a flight of 725 yards in 41 seconds at 36.2 mph. The side controls were used extensively for the first time and worked well."

We also enclose herewith copy of a letter from Mr. Baldwin, dated May 6, 1912. This is interesting in connection with the conception of the invention in April 1908. You will observe that Mr. Baldwin stated:

"I did not personally think of the steering action at all, or if it was pointed out to me did not realize the importance of the principle. However, I do know that the flat angle was discussed as early as the building of the 'White Wing' (probably on receipt of Dr. Bell's letter) and other members of the A.E.A. may have clearly recognized the importance of balanced wing tips at that time."

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As requested above, please examine your records, and bring with you to Washington any drawings, publications or other records that would establish the dates alleged, and particularly photographs and drawings with respect to the "Red Wing", "White Wing" and "June Bug". Please also discuss this matter carefully with Mr. Baldwin. We are today

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forwarding, by registered mail, a copy of this letter and of the various enclosures, to Messrs. Curtiss, in Hammondsport, and McCurdy, at 704 Parker St., Newark, N.J. Kindly acknowledge this communication promptly, so that we may know that you have this matter in hand. Also advise us when you expect to return to Washington.

Very truly yours, Dic. K-F. Encs.

Nov. 13, 1914. Glenn H. Curtiss, Esq., Hammondsport, N. Y. Dear Mr. Curtiss:—

Bell et al. v. Myers Interference.

We enclose herewith carbon copy of a letter which we are today forwarding to Dr. Bell, together with copies of the enclosures therein referred to. Please advise us where it would be most convenient for you to give your deposition in this matter, and when. You will observe our suggestion to Dr. Bell that he give his deposition here in Washington sometime about December 15th next. It would be well if you could come to Washington and give your deposition following Dr. Bell's deposition. Please take up this matter of securing corroboratory testimony with respect to the date when the ailerons were first arranged at a zero angle of incidence on the old "June Bug". If the old "June Bug" is still in existence, it would be interesting to have a photograph of the same in its present condition. Probably you have among your records photographs or drawings of the various A.E.A. machines, and these should be made available, as we may desire to introduce some of them in evidence.

Please acknowledge promptly receipt of this letter, so that we may know that you have the matter in hand.

Yours very truly, Dic. K-F. Encs.

Nov. 13, 1914. J. A. D. McCurdy, Esq., #704 Parker Street, Newark, N. J. Dear Mr. McCurdy:—

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